

PROJUSTICE

DR CONGO
RULE OF LAW INSTITUTIONAL
STRENGTHENING PROJECT

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1st Quarterly Progress Report

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1. EXECUTIVE SUMMARY

The ProJustice Program was launched in the final quarter of 2008, and project start-up and implementation has progressed apace since that time. Given the realities of a justice system that since its establishment during the colonial era has suffered neglect and executive interference, the project and the country face the daunting challenge of essentially building the judicial sector from scratch so it can play its rightful role as a key pillar of the newly democratic Congo. But the Congolese context is not as simple as a “return to democracy.” Rather, the justice reform work commences against the violent backdrop that has dominated recent history - the 1996-1997 and the 1998-2003 Congolese civil wars and armed conflicts are the deadliest after World War II, causing directly and indirectly the death of 3.5 million people.

This extreme violence has been followed by a constitutional referendum for the adoption of a new Constitution (December 2005) and elections for the presidency, national assembly, and provincial legislatures in 2006. Joseph Kabila promulgated the new Constitution on 18th February 2006. In December of that year, Kabila was inaugurated President and a new government formed in early February 2007. However, the ongoing insecurity and humanitarian disaster in eastern DRC have frustrated expectations that the fledgling democracy will usher in an era of peace and stability. Recent events in eastern Congo have demonstrated clearly that elections do not guarantee an end to violence as a method of social and political change. Reform of the justice system is among the many hopes and expectations the Congolese have struggled for, which will require a sustained effort by USAID and other donors, and of course a clear expression of political will and commitment of financial resources by the Congolese government.

DPK Consulting is pleased that USAID has placed such high confidence in the team and our approach to undertaking this important and challenging new program, in such a daunting development context. This first quarterly report will focus primarily on start-up tasks and issues and initial program implementation steps.

2. SIGNIFICANT FIRST QUARTER ACHIEVEMENTS

A. Overall Project Management

Project office and staff established

Despite multiple program obstacles noted in Section 4 below, ProJustice has moved forward significantly during this start-up phase. Office space was obtained and we have received a number of furnishings from the EDC/Page project for program use. All but one key personnel have been and fielded and the Project has submitted the candidate for the final position to the CTO for review. Recruitment of local staff is underway. Positions filled to date include a finance assistant, an administrative assistant, two drivers, one Court Coordinator and one M&E Assistant. Candidates for other posts have been identified and we are moving forward with interviews and reference checks.

Coordination of project activities with other donor agencies, donor-funded projects, and reform-oriented organizations

Meetings with donors, partners, counterparts, etc. during the reporting period have included initial and follow up sessions with:

- SYNAMAC
- Global Rights
- Comite Justice MOJ
- Palais de Justice– Contacts with Grand Instance Tribunal Magistrates.
- Prison System
- Ministry of Human Rights
- RCN Justice Democratie
- ASF

- UNDP Governance Programme
- REJUSCO
- Ministry of Justice
- DAI
- Mixed Committee, presided by the MOJ

Monitoring and Evaluation strategy developed and implemented

ProJustice has established its M&E team, including Philippe Cantave and a CCN assistant/expert in this area, Emmanuel Molonday. They are actively elaborating the M&E Plan, including a strategy for data collection.

Component 1: Support the Establishment of New Judicial Institutions

No significant activities were contemplated under this component for 1st Quarter. Mr Kavundja's work has focused on developing an initial report on the judicial selection process, a background paper that will serve to guide the ProJustice project under this component. We will be pleased to provide you with a copy of the advance report upon request. Mr Kavundja will now begin working with counterparts to clarify appointment and promotion responsibilities and spheres of influence currently exercised by the MOJ and to be assumed by the CSM.

With respect to the establishment of a CSM Working Committee on policy and administration of the judicial branch chaired by the President of the Supreme Court, we have initiated coordination in this area with our DAI partners to build upon the advances made by that project on the development of CSM internal regulations. The Working Committee contemplated under the ProJustice program plan is projected for the upcoming next reporting period.

Component 2: More Effective and Transparent Management of the Judiciary and Ministry of Justice

As with Component 1, no major activities were contemplated under this component for the 1st quarter of the ProJustice program. ProJustice suffered a setback when the key personnel proposed as Training Specialist was unable/unwilling to relocate to DRC despite earlier indications to the contrary. Efforts to recruit a suitable replacement are underway.

Component 3: More Effective, Transparent, and Accessible Court Operations in Pilot Jurisdictions

In this area, we have moved forward on defining activities and approaches under the pilot court program and on recruitment of the pilot court coordinators, especially for Kindu and South Kivu provinces. We will train these coordinators here in Kinshasa in the pilot court methodology and provide follow up to them once they are placed in the field.

Steps to establish the Pilot working Group on the Pilot Court Program were taken during the John Ferry consultancy in November and December of 2008. CSM Secretariat Director Kasonga and SYNAMAC President Nsambayi agreed to assist in providing recommendations for judges, prosecutors and CSM and MOJ staff to help establish the group.

Coordination of pilot court program priorities and activities with the judiciary as well as with donor projects advanced significantly during the John Ferry consultancy. During interviews with judges and staff of courts, CSM officials, and MOJ staff, the status of current court operations was identified, including challenges facing the courts, critical resource needs, linkages to justice agency partners, and potential opportunities for process improvement. CSM officials and judges expressed

enthusiasm for the pilot courts and a commitment to assist in implementation of the pilot court program.

The judicial system is unable at the present time to sustain even basic processes to ensure adequate case processing operations or to ensure balanced services for all litigants. Resource shortages preclude the ability of courts to accomplish service of process (notifying parties) in civil and even criminal cases. For example, those cases where litigants are unable to pay the costs for service of process languish and cannot be processed, meaning that indigent litigants' claims are not addressed. This resource shortfall is not due to poor management of resources at the trial court level, rather, it is apparently due to central budget allocations for transportation being unfunded. Similarly, prosecutor offices lack funds to transport indigent victims for investigative interviews or for hearings, etc., leading to criminal complaints not being filed and criminal cases not being processed. These basic resources challenges will need to be addressed in the pilot court implementation strategy through reallocation of central budget allocations by counterparts or through deployment of donor or project funds in order for pilot courts to have meaningful opportunities for process improvements. Given the finding that some budgetary line items are appropriate but not funded, we believe it will be necessary to ensure basic operations in pilot courts through a donor-funded pilot court fund.

Discussion and development of a Strategy for Dissemination of Pilot Court Practices likewise advanced during the reporting period, through interviews with local counterparts to identify current communications capacity and to elicit views of local judicial professionals of means to institutionalize successful pilot court practices. There is no established communications infrastructure within the judiciary, partly due to logistical challenges associated with technology, the size of the country, and resources limitations on publishing and transportation. A strategy is being developed which will include, for example:

- Periodic written updates on pilot court activities, successes, and best practices, developed by or in collaboration with pilot court judges and prosecutors;
- Presentations by pilot court judges and prosecutors and CSM staff at special regional meetings and regular meeting sponsored by the project, CSM, and the judges' associations (particularly SYNAMAC);
- Development of experience and expertise in the CSM staff through assignment of liaison staff to pilot courts to participate in pilot court strategy development and implementation;
- Hosting on-site visits of judges and prosecutors from other jurisdictions and MOJ and CSM staff;
- Assisting the CSM in developing central office court administration expertise and the capacity to develop policy for improved court administration practices, and providing technical assistance to courts and prosecutors in implementing improved practices.

Component 4: Increased Access to Justice for Vulnerable Populations

As with other ProJustice components, no major activities were contemplated under this component for the 1st quarter of the ProJustice program. The arrival of Philippe Cantave in mid-January will result in a major push under this component, as described below in section 3.

Supplemental Program for Eastern DRC

An exploratory visit to South Kivu took place in the first quarter jointly with the CTO Ruxandra Datcu. During the visit, we held discussions with local stakeholders on the activities contemplated by ProJustice in the region to begin to lay the groundwork for the work planned under the supplemental budget in 2009.

3. SUMMARY OF PLANNED ACTIVITIES FOR NEXT QUARTER

The following is a summary of the major activities planned for the next quarter of activity.

Overall Project Management

Project office and staff established

- Complete procurement of office equipment/furniture; continue recruitment of local staff. Priority positions include: Office Finance/Administrative Manager, Pilot Court Coordinators, and Component Coordinators.

Project Launch Event and Activities to raise awareness of the presence and role of the new USAID project

- Initiate preparations for a start-up event to be held in April to publicize the ProJustice project; Produce and distribute handbooks on the laws of DRC for judges throughout targeted jurisdictions.

Coordination with partner stakeholders and counterpart institutions

- Convene a stakeholder meeting and develop a three-way MOU drafted between MOJ, CSM, and Public stakeholders; develop a MOU with National Judicial Training School and Court Personnel School.

Coordination of project activities with other donor agencies, donor-funded projects, and reform-oriented organizations

- Continue active participation in donor coordination meetings. If donors are amenable to such an approach, propose the development of a coordination matrix and/or other information sharing agreements and coordinating instruments with organizations implementing other justice sector donor-funded projects.

Establish consultation mechanisms with court users to produce recommendations for making courts more efficient and effective

- Host public stakeholder and judiciary joint conferences to introduce new reforms, increase understanding of the justice process, and facilitate discussions on needs of the public.

Communications: Keep justice sector counterparts, donors, and stakeholders informed of project activities and successes on a regular basis

- Develop a justice sector reform bulletin for dissemination to counterparts and project beneficiaries. If deemed useful, design, establish, and maintain ProJustice website.

Monitoring and Evaluation strategy developed and implemented

- Continued work by ProJustice M&E team on the M&E Plan, including strategy for data collection; establish and analyze control courts; and establish baseline data.

Component 1: Support the establishment of New Judicial Institutions

Support ratification and implementation of new legislation for the CSM and Constitutional Court

- Establish a CSM Working Committee on policy making and administration of the judicial branch chaired by the President of the Supreme Court; undertake a workshop to discuss optimal roles for each central institution (CSM, MOJ, and Constitutional Court); and design and execute a strategic planning and policy formulation process to guide development of the CSM.

Transparent, Merit-Based Criteria for Recruitment, Selection, Discipline, and Promotion of Magistrates Adopted

- Establish a committee on judicial selection and develop Report on Judicial Selection Processes as part of the process to clarify appointment and promotion responsibilities between MOJ and CSM.

CSM Established and Functional with Internal Operating Procedures and Organizational Structures

- Tasks in this activity include establishment of administrative and management policies for the CSM; defining the needed functions and procedures to address mandates defined by the new laws; obtaining documentation on international best practices; assisting with development of comprehensive and functional organizational structures, job descriptions; developing management plan for infrastructure and development of technology at the CSM; and designing technical, training, and mentoring assistance on effective and efficient operations.

Component 2: More Effective and Transparent Management of the Judiciary and Ministry of Justice

Strengthen Management Skills of Magistrates and MOJ Personnel

- Carry out an Organizational Audit and Management Skills Needs Assessment (in coordination with DAI), followed by organizational development and training plans and an operational manual with performance guidelines for each of the needed core management areas.

More Effective and Transparent Resource Management by MOJ and Judiciary

- Support a Court Finance and Resource Management Working Group and analyze current funding levels and trends and current and forecasted caseloads, staffing, and other resource requirements.

Component 3: More Effective, Transparent, and Accessible Court Operations in Pilot Jurisdictions

Pilot jurisdictions selected and strategy developed with stakeholder input

- Establish a Working Group on the Pilot Court Program, mobilize pilot court coordinators to South Kivu and Maniema.

Current management practices and procedures assessed and a strategy for improvement established

- Analyze case backlogs and conduct a fee and resource analysis for each pilot court.

Strategy for increasing effectiveness and transparency of court management developed

- Define Pilot Court Activities.

Improvements to court operations realized through PACT Planning Process

- Introduce PACT Planning process with each pilot court, CSM, Supreme Court, and MOJ; assist pilot jurisdictions of development of proposals for specific reform activities.

Increase Civic Engagement in Court Monitoring

- Develop outreach plan with pilot courts to increase interaction and involvement of CSOs in administration of justice and court monitoring; and develop and initiate public education programs, post judicial ethics standards, and information for citizens about how to report misconduct

Component 4: Increased Access to Justice for Vulnerable Populations

Increased capacity of CSOs to provide access to justice services

- Conduct a stakeholder mapping exercise of CSOs working on access to justice issues in the pilot areas; survey capacity building needs of key CSOs in pilot areas; begin training of CSOs to increase organizational capacity; establish a network of CSO-run legal resource clinics to expand access to free legal consultations and court watch programs in pilot jurisdictions.

Grants provided to CSOs to help increase activities and impact in justice sector

- Develop grants manual and announce and launch grants program.

Supplemental Program for Eastern DRC

Open Kindu and Bukavu offices with qualified staff in order to support the pilot court programs in each of these two areas, as well as the work contemplated in partnership with civil society organizations and other activities defined in the work plan.

4. 1ST QUARTER PROBLEMS AND REMEDIAL ACTIONS

There have been and remain numerous obstacles to overcome and the ProJustice team is striving to do so. Such obstacles are logistical as well as programmatic and include:

- Judicial Council and other new justice sector institutions have not yet been established, so we are strategizing on ways to move the reform agenda forward despite the lack of forward movement by counterparts.
- Suspending of work of CSM on internal regulations – here, too, we are considering ways to move the reform agenda forward despite the lack of forward movement by counterparts.
- Availability of suitable office space – we rented a house for conversion to office space.
- Actual lodging costs for international staff inconsistent with costs provided on US State Department website – we are conducting a housing survey and preparing a note to USAID on this issue.
- Unanticipated loss of key personnel and finance/administrative local staff and delays in identifying/obtaining approval/fielding replacements – we have redoubled efforts to recruit key personnel and others and have added in a “pre-submission” stage to the process in order to seek USAID approval prior to formal submission.
- Lack of clarity on the degree of support the program can expect from the USAID Mission on , immigration matters, avoiding duties on importing HHE and program materiel, etc. – we are endeavoring to seek clarity from USAID on the various tasks contractors must assume absent implementing procedures under the USG-DRC bilateral agreement.
- Obtaining a local bank account – perseverance resulted in obtaining the project bank account three months following application to the bank.
- Registering ARD/DPK as a USAID project implementing entity – this process requires continual follow up at each of its multiple stages.

5 PROPOSED MODIFICATIONS TO THE ANNUAL WORK PLAN

Pursuant to discussions with acting CTO Kaya Adams, we have reviewed the proposed work plan for ProJustice, and made adjustments to the target dates for selected activities. The need to justify the dates proposed for these activities includes:

- Delays in fielding key personnel to lead the activities indicated;
- Absence of the COP for several weeks who had to return to pack out of prior residence and return to DRC with his family;
- Unexpected delays in identifying suitable local staff for technical support positions;

- The end-of-year holidays in DRC meant many public sector institutions and businesses were closed for a period;
- Other unanticipated delays resulting from the problems we have cited above in 1st Quarter Problems and Remedial Actions.

We are attaching a copy of the work plan with the activities we propose to reschedule highlighted. Our analysis is that these activities will require an additional two months time to complete. We would appreciate your feedback on this proposal.